

Before the
Administrative Hearing Commission
State of Missouri



MARISA GELFAND,

Petitioner,

vs.

COMMITTEE FOR
PROFESSIONAL COUNSELORS,

Respondent.

No. 13-1384 PC

DECISION

We dismiss Marisa Gelfand's complaint because it is moot.

Procedure

On August 1, 2013, Gelfand filed a complaint appealing the decision of the Committee for Professional Counselors ("the Committee") to deny her a license to practice as a professional counselor in Missouri. The Committee filed a motion to dismiss ("the motion") on August 30, 2013. Gelfand responded to the Committee's motion on September 5, 2013.

We treat the motion as a motion for summary decision because it relies on matters other than allegations in the complaint and stipulations. Regulation 1 CSR 15-3.436(4)(A).¹ We will

¹ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

grant the motion if the Committee establishes facts that entitle it to a favorable decision and Gelfand does not dispute those facts. Regulation 1 CSR 15-446(6)(A). We make our findings of fact from the pleadings in this case and the Committee's affidavit, attached to its motion. The following findings of fact are undisputed.

Findings of Fact

1. Gelfand is a licensed professional counselor ("LPC") in Virginia.
2. Gelfand applied for licensure by reciprocity in Missouri.²
3. On July 5, 2013, the Committee denied Gelfand's application based on its determination that Virginia's requirements for LPC licensure were not "substantially the same" as Missouri's.
4. In its motion, the Committee represents that on August 16, 2013, Gelfand received certification from the National Board for Certified Counselors as a National Certified Counselor.
5. The Committee issued Gelfand a license on August 16, 2013.

Conclusions of Law

We have jurisdiction over complaints alleging that the Committee has unlawfully denied a license. Sections 337.525, RSMo. 2000 and 621.045 RSMo. Supp. 2012. However, after Gelfand filed her complaint, the Committee issued a license to her.

Gelfand refutes none of the representations in the Committee's motion. She states that she does not oppose the motion "provided the dismissal is without prejudice," but does oppose a dismissal "with prejudice." She complains that other trained and competent counselors have been or will be denied reciprocity if the Committee continues its "legally questionable practice" of denying a license by reciprocity as it did in this case.

² The date of Gelfand's application does not appear in the record.

Because this Commission was created by state statutes, we have only such authority as the statutes give us, and jurisdiction over the Committee's decisions only as authorized by statute. *State Bd. of Reg'n for the Healing Arts v. Masters*, 512 S.W.2d 150, 161 (Mo. App., K.C.D. 1974). Because our authority and jurisdiction are so limited, this Commission's procedures, unlike those of a court, make no distinction between a dismissal with prejudice and one without prejudice.

Under § 621.045, we have jurisdiction over cases in which “an agency refuses to permit an applicant to be examined upon his or her qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination.” But we do not have the authority to generally superintend the Committee's procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W.2d 445, 450 (Mo. banc 1985).

The Committee has issued a license to Gelfand. “When an event occurs that makes a [tribunal's] decision unnecessary . . . the case is moot and generally should be dismissed.” *Hihn v. Hihn*, 235 S.W.3d 64, 68 (Mo. App., E.D. 2007). We conclude that Gelfand's appeal is moot, and that we lack jurisdiction to take any further action in the case.

Summary

We grant the Committee's motion, and we dismiss the complaint.

SO ORDERED on September 11, 2013.

\s\ Karen A. Winn
KAREN A. WINN
Commissioner